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Attorneys for Defendant
Ritz Camera Centers, Inc.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
(LOS ANGELES DIVISION)**

SHOGER ANDONIAN,
individually and all others similarly
situated,

Plaintiff,

vs.

RITZ CAMERA CENTERS, INC.,
Defendant.

CIVIL ACTION NO. CV 07-2349 JSL
(FMOX)

**ANSWER OF DEFENDANT RITZ
CAMERA CENTERS, INC. TO
COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF**

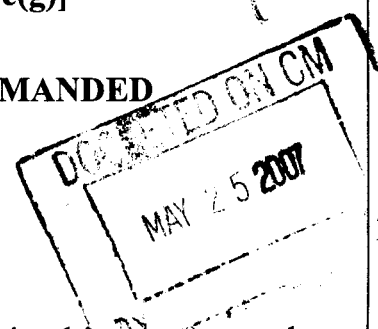
[15 U.S.C. §§ 1681c(g)]
CLASS ACTION

JURY TRIAL DEMANDED

Defendant Ritz Camera Centers, Inc. ("RCCI"), submits this Answer and
Affirmative Defenses to Plaintiff's Complaint For Damages ("Complaint"):

FILED
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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES
BY _____

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1 1. Answering Paragraph 1, RCCI admits that this action is purportedly
2 brought pursuant to 28 U.S.C. § 1331 and 15 U.S.C. § 1681p.

3 2. Answering Paragraph 2, RCCI admits that venue in this action is
4 purportedly based on 28 U.S.C. § 1391(b); except as expressly so admitted, RCCI
5 is without knowledge or information sufficient to form a belief as to the truth of the
6 allegations in said Paragraph, and on that basis denies each and every allegation
7 contained therein.

8 3. Answering Paragraphs 3 and 6, RCCI is without knowledge or
9 information sufficient to form a belief as to the truth of the allegations in said
10 Paragraphs, and on that basis denies each and every allegation contained therein.

11 4. Answering Paragraph 4, RCCI admits that it is a corporation
12 incorporated under the laws of the State of Delaware with headquarters in
13 Beltsville, Maryland. RCCI admits that it operates retail stores in this judicial
14 district and throughout the United States. RCCI admits that it transacts business in
15 the United States and that it accepts particular credit cards and debit cards in the
16 course of transacting business at its retail stores. Except as expressly so admitted,
17 RCCI denies each and every allegation contained in said Paragraph.

18 5. Answering Paragraphs 5, 7, 9, 10, 11, 12, 13, 23, 24, 25, 26, and 27,
19 RCCI denies each and every allegation contained therein and specifically denies
20 that Plaintiff or any purported class members were damaged in any amount by
21 reason of RCCI's conduct.

22 6. Answering Paragraph 8, RCCI alleges that the referenced federal
23 statute is the best evidence of its contents; further, the allegations contained in said
24 Paragraph are legal conclusions not subject to answer; RCCI admits that 15 U.S.C.
25 § 1681c(g) contains the sentence quoted in said Paragraph. Except as so answered,
26 RCCI denies each and every such allegation contained therein.

27 7. Answering Paragraphs 14, 15, 16, 17, 18, 19, 20, and 21, RCCI admits
28 that Plaintiff purports to allege she brings this action on behalf of herself and

1 others and purports to define a class and exclusions there from; except as
2 specifically so admitted, RCCI denies that the allegations in these Paragraphs meet
3 the requirements of Federal Rules of Civil Procedure Rule 23. RCCI is without
4 knowledge or information sufficient to form a belief as to the truth of the
5 remaining allegations in these Paragraphs, and on this basis denies each and every
6 allegation contained therein.

7 8. Answering Paragraph 22, RCCI repeats, realleges and incorporates by
8 reference each of its admissions, denials and allegations answering Paragraphs 1
9 through 21 of the Complaint.

11 AFFIRMATIVE DEFENSES

12 Failure to State a Claim

13 9. The Complaint, including each purported cause of action therein, fails
14 to state a claim upon which relief can be granted.

15 Lack of Willfulness

16 10. The claims of the named Plaintiff on her own behalf and on behalf of
17 the putative class members (collectively, for the purposes of these Affirmative
18 Defenses, the "plaintiffs") are barred, in whole or in part, by the absence of
19 willfulness of conduct by RCCI.

20 Primary Jurisdiction

21 11. Plaintiffs' claims fall within the primary jurisdiction of the Federal
22 Trade Commission.

23 Lack of Standing

24 12. Plaintiffs lack standing to assert these claims because, *inter alia*, they
25 have sustained no injuries.

1 Mootness

2 13. Upon information and belief, claims of many putative class members
3 are moot because RCCI has complied with FACTA with respect to credit card or
4 debit card receipts provided to such persons.

5 Fault of Others

6 14. Upon information and belief, if plaintiffs sustained damages, which is
7 denied, the damages were caused solely by or contributed to by the acts and fault
8 of third parties and were not caused or contributed to by any acts or fault of RCCI.

9 Disclaimer of Liability for Consequential and other Damages

10 15. Plaintiffs' claims are barred in whole or in part to the extent RCCI
11 disclaimed liability for any consequential damages, loss of time or inconvenience
12 arising from transactions with RCCI..

13 Failure to Mitigate Damages

14 16. Plaintiffs have failed, in whole or in part, to mitigate their alleged
15 damages.

16 Constitutionality of Punitive Damages

17 17. Plaintiffs' request for punitive damages cannot be sustained because
18 an award of punitive damages by a jury that (1) is not provided constitutionally
19 adequate standards of sufficient clarity for determining the appropriate imposition
20 of, and the appropriate size of, a punitive damages awarded, (2) is not adequately
21 instructed on the limits of punitive damages imposed by the applicable principles
22 of deterrence and punishment, (3) is not expressly prohibited from awarding
23 punitive damages, or determining the amount of an award of punitive damages, in
24 whole or in part on the basis of invidiously discriminatory characteristics,
25 including without limitation the residence, wealth, and corporate status of RCCI,
26 (4) is permitted to award punitive damages under a standard for determining
27 liability for punitive damages that is vague and arbitrary and does not define with
28 sufficient clarity the conduct or mental state that makes punitive damages

1 permissible, (5) is not properly instructed regarding plaintiffs' burden of proof with
2 respect to each and every element of a claim for punitive damages, or (6) is not
3 subject to trial court and appellate judicial review for reasonableness and
4 furtherance of legitimate purposes on the basis of constitutionally adequate and
5 objective standards violates RCCI's due process and equal protection rights
6 guaranteed by the Fifth and Fourteenth Amendments to the United States
7 Constitution, and would be improper under the common law and public policies of
8 the United States.

9 18. Plaintiffs' request for punitive damages also cannot be sustained
10 because the applicable laws regarding the standards for determining liability for
11 and the amount of punitive damages fail to give RCCI prior notice of the conduct
12 for which punitive damages may be imposed and the severity of the penalty that
13 may be imposed and are void for vagueness in violation of RCCI's due process
14 rights guaranteed by the Fifth and Fourteenth Amendments to the United States
15 Constitution.

16 19. Further, plaintiffs' request for punitive damages against RCCI cannot
17 be sustained, because an award of punitive damages, subject to no predetermined
18 limit, such as a maximum multiple of compensatory damages or a maximum limit
19 on the amount of punitive damages that may be imposed, or assessed without a
20 reasonable relationship to the reprehensibility proven as to RCCI's conduct, or
21 assessed without a relationship to the financial condition of RCCI, would violate
22 RCCI's due process rights guaranteed by the Fifth and Fourteenth Amendments to
23 the United States Constitution, would violate RCCI's right not to be subjected to an
24 excessive award in violation of the Eighth Amendment to the United States
25 Constitution, and would be improper under the common law.

26 20. Moreover, plaintiffs' request for punitive damages against RCCI
27 cannot be sustained, because an award of punitive damages exceeding the limits
28 authorized by the criminal laws or other comparable laws would violate RCCI's

1 due process and equal protection rights guaranteed by the Fifth and Fourteenth
2 Amendments to the United States Constitution, and would be improper under the
3 common law.

4 21. Plaintiffs' request for punitive damages against RCCI also cannot be
5 sustained because any award of punitive damages under applicable law, which
6 would be penal in nature, without affording RCCI the same protections that are
7 afforded to all criminal defendants, including the protection against self-
8 incrimination, and the burden of proof against such defendants of proof beyond a
9 reasonable doubt, *inter alia*, would violate RCCI's rights guaranteed under the
10 Fourth, Fifth, and Sixth Amendments as incorporated into the Fourteenth
11 Amendment to the United States Constitution, and would be improper under the
12 common law.

13 22. RCCI further states that the Complaint fails to state sufficient facts to
14 support the prayer for punitive damages against RCCI.

15 Constitutionality of Civil Penalty/Statutory Damages

16 23. Plaintiffs' request for a civil penalty in the form of statutory damages
17 cannot be sustained because an award of civil penalty/statutory damages would
18 operate in this litigation in the same manner and for the same purposes as punitive
19 damages, and an award by a court or jury that (1) is not provided constitutionally
20 adequate standards of sufficient clarity for determining the appropriate imposition
21 of, and the appropriate size of, a punitive damages awarded, (2) is not adequately
22 instructed on the limits of punitive damages imposed by the applicable principles
23 of deterrence and punishment, (3) is not expressly prohibited from awarding
24 punitive damages, or determining the amount of an award of punitive damages, in
25 whole or in part on the basis of invidiously discriminatory characteristics,
26 including without limitation the residence, wealth, and corporate status of RCCI,
27 (4) is permitted to award punitive damages under a standard for determining
28 liability for punitive damages that is vague and arbitrary and does not define with

1 sufficient clarity the conduct or mental state that makes punitive damages
2 permissible, (5) is not properly instructed regarding Plaintiffs' burden of proof with
3 respect to each and every element of a claim for punitive damages, or (6) is not
4 subject to trial court and appellate judicial review for reasonableness and
5 furtherance of legitimate purposes on the basis of constitutionally adequate and
6 objective standards violates RCCI's due process and equal protection rights
7 guaranteed by the Fifth and Fourteenth Amendments to the United States
8 Constitution, and would be improper under the common law and public policies of
9 the United States.

10 24. Further, plaintiffs' request for civil penalties/statutory damages, like
11 its request for punitive damages against RCCI cannot be sustained, because an
12 award of civil penalties or punitive damages, subject to an excessive maximum
13 multiple of violations and an excessive maximum limit on the amount of civil
14 penalties that may be imposed, or assessed without a reasonable relationship to the
15 reprehensibility proven as to RCCI's conduct, or assessed without a relationship to
16 the financial condition of RCCI, would violate RCCI's due process rights
17 guaranteed by the Fifth and Fourteenth Amendments to the United States
18 Constitution, and, though misnomered as civil penalties, would violate RCCI's
19 right not to be subjected to an excessive award in violation of the Eighth
20 Amendment to the United States Constitution, and would be improper under the
21 common law.

22 25. Moreover, plaintiffs' request for civil penalties against RCCI cannot
23 be sustained, because an award of misnomered civil penalties/statutory damages,
24 like an award of punitive damages, exceeding the limits authorized by the criminal
25 laws or other comparable laws would violate RCCI's due process and equal
26 protection rights guaranteed by the Fifth and Fourteenth Amendments to the
27 United States Constitution, and would be improper under the common law.
28

26. Plaintiffs' request for misnomered civil penalties/statutory damages against RCCI also cannot be sustained because any civil penalties, like an award of punitive damages under applicable law, would be penal in nature, without affording RCCI the same protections that are afforded to all criminal defendants, including the protection against self-incrimination, and the burden of proof against such defendants of proof beyond a reasonable doubt, *inter alia*, would violate RCCI's rights guaranteed under the Fourth, Fifth, and Sixth Amendments as incorporated into the Fourteenth Amendment to the United States Constitution, and would be improper under the common law.

27. RCCI further states that the Complaint fails to state sufficient facts to support the prayer for civil penalties/statutory damages against RCCI.

Notice of Additional Affirmative Defenses


28. RCCI hereby gives notice that it intends to rely upon such other affirmative defenses as may become available or apparent during the course of discovery and thus reserves the right to amend this Answer to assert such defenses.

WHEREFORE, RCCI demands judgment dismissing the Complaint, awarding to RCCI its costs of suits, attorneys fees to the extent recoverable under law, and such other and further relief as this Court may deem just and proper.

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Dated: May 23, 2007

HOLLAND & KNIGHT LLP
 Richard T. Williams

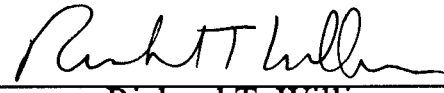
By: 
 Richard T. Williams
 Attorneys for Defendant
 Ritz Camera Centers, Inc.

DEMAND FOR TRIAL BY JURY

Defendant Ritz Camera Centers, Inc., hereby demands trial by jury of all claims and causes of action in the Complaint herein.

Dated: May 23, 2007

HOLLAND & KNIGHT LLP
Richard T. Williams

By: 
Richard T. Williams
Attorneys for Defendant Ritz Camera
Centers Inc.

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Shogher Andonian v. Ritz Camera Centers, Inc., etc.
USDC-Central District of California, Case No. CV07-2349 JSL (FMOx)

PROOF OF SERVICE

State of California)
)
County of Los Angeles) ss.

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 633 West Fifth Street, 21st Floor, Los Angeles, California 90071.

On **May 23, 2007**, I served the document described as **ANSWER OF DEFENDANT RITZ CAMERA CENTERS, INC. TO COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF** on the interested parties in this action, enclosed in a sealed envelope, addressed as follows:

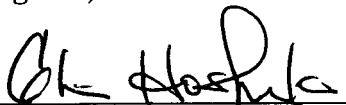
Wayne S. Kreger
Launa N. Everman
Milstein, Adelman & Kreger, LLP
2800 Donald Douglas Loop North
Santa Monica, CA 90405
(310) 396-9600
(310) 396-9635 – Fax

X **(By Mail)**

Following ordinary business practices, I placed the document for collection and mailing at the offices of Holland & Knight LLP, 633 West Fifth Street, 21st Floor, Los Angeles, California 90071, in a sealed envelope. I am readily familiar with the business' practice for collection and processing of correspondence for mailing with the United States Postal Service, and, in the ordinary course of business, such correspondence would be deposited with the United States Postal Service on the day on which it is collected at the business.

(Federal) I declare under penalty of perjury under the laws of the United States that the above is true and correct and that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

Executed on May 23, 2007, at Los Angeles, California.



Gloria Hoshiko